

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ANTONE LEMANDINGO KNOX,)
)
Petitioner,)
)
-vs-) Case No. CIV-20-1045-F
)
)
MARK BOWEN,)
)
Respondent.)

ORDER

Petitioner Antone Lemandingo Knox is a state prisoner appearing *pro se*. His pleadings are liberally construed.

On November 23, 2020, the magistrate judge submitted a Report and Recommendation (doc. no. 15), recommending this habeas proceeding, brought under 28 U.S.C. § 2241, be dismissed on initial screening. The Report also recommended that petitioner's motion for order (doc. no. 14) be denied as moot. The Report advised petitioner that any objection to the Report must be filed by December 10, 2020, and that failure to make timely objection waives the right to appellate review of both factual and legal questions addressed in the Report.

In a motion received in this court on December 9, 2020, petitioner sought an extension of time within which to file an objection to the Report. Doc. no. 16. That motion was granted, and the deadline for an objection was extended to January 11, 2021. Doc. no. 17.

On January 11, 2021, the court received another motion for an extension. Doc. no. 18. The motion was granted, and the date on which any objection was due was extended to February 9, 2021. Doc. no. 19.

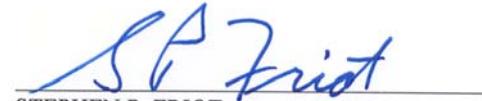
On February 8, 2021, the court received a document from petitioner entitled “Ex Parte Objection & Responses and Motion for Contempt of Court and Rule 11, Sanctions on Respondents/Defendants & Atty of Record.” Doc. no. 20. This document states that petitioner objects “to any district court judge’s dismissal of my case’s [sic] if this court hasn’t received my outgoing legal mail’s [sic] dated Jan 25, 2021 that was giving [sic] to L.C.F., Law Library C.O. Supvr.s while at law library visit....” *Id.* at p. 1. The document describes five documents which petitioner says he submitted to his institution for mailing, to be filed in three different district court cases (one of which is this case), as well as two additional pieces of mail petitioner says he submitted for mailing to the Oklahoma Supreme Court. Thus, doc. no. 20 relates to a number of actions. That document does not set out any substantive objections to the Report filed in this action. Instead, it states that petitioner objects to any of the courts in question dismissing any of petitioner’s cases if the court has not received petitioner’s outgoing mail dated January 25, 2021. This court has waited two weeks beyond its receipt of doc. no. 20 before taking any further action, but no additional objection to the Report has arrived.

The Report construes petitioner’s habeas petition as alleging violations of the Eighth Amendment, Equal Protection, the First Amendment and Due Process. The Report recommends dismissal of the Eighth Amendment and Equal Protection claims (in which he states “others” were afforded procedural due process in connection with commutation applications, while he was not) as conclusory. The Report recommends dismissal of the First Amendment claim (in which petitioner complains he was denied commutation in retaliation for his filing of various state and federal lawsuits) on the ground that petitioner’s remedies have not been exhausted, noting that petitioner admits an appeal of his commutation denials is still pending. The Report recommends dismissal of the Due Process claim (which alleges petitioner’s rights were violated by the Pardon and Parole Board’s summary denial of

his commutation applications) because the power to commute a sentence lies within the sole discretion of the governor; as a result, petitioner has not alleged an actionable liberty interest. For these reasons, the Report recommends dismissal of this action, in its entirety, on initial screening.

Having reviewed the Report *de novo*, and with the only objection to the Report being the filing received on February 8, 2021 (doc. no. 20), the court concurs in the recommended rulings set out by the magistrate judge. The Report (doc. no. 15) is **ACCEPTED, ADOPTED** and **AFFIRMED**, and this action is **DISMISSED** without prejudice. As recommended in the Report, the motion at doc. no. 14 is **DENIED** as **MOOT**. The motion for contempt included in the filing received on February 8, 2021 (doc. no. 20) is also **DENIED** as **MOOT**.

IT IS SO ORDERED this 23rd day of February, 2021.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE